

Section 66A of the IT Act

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What's in today's article?

- **About Section 66A of IT Act (Background, Provisions, Criticism, Court's Judgement)**
- **News Summary**

Why in News?

- The Central government introduced Jan Vishwas (Amendment of Provisions) Bill, 2022, in Lok Sabha, which seeks to amend 183 provisions across 42 laws and is meant to decriminalise several offences.
- On the list of provisions proposed to be omitted is the controversial **Section 66A from the Information Technology Act** that saw adverse court rulings.

Background on Section 66A of the IT Act:

- The Information Technology Act was enacted in 2000 when Internet was still relatively new in India.

- As social media websites and mobile apps gained popularity in India, misuse and abuse of the platforms came up as a challenge.
- As a result, Section 66A was inserted into the IT Act in **2009**.

What are the provisions under Section 66A?

- Section 66A made **sending of offensive messages using a computer or any other communication devices a crime**.
- The police had to determine whether an information sent in the message qualified as offensive or not.
- To be booked under Section 66A, the information in the message had to be –
 - Grossly offensive;
 - False and meant for the purpose of causing annoyance, inconvenience, danger, obstruction, insult, injury, criminal intimidation, enmity, hatred or ill will;
 - Meant to deceive or mislead the recipient about the origin of such messages.
- The crime was **punishable with three-year jail term and fine**.

Why was Section 66A struck down?

- The problem was with the vagueness about what is “offensive”.
- The word having a very wide connotation, was open to distinctive, varied interpretations.
- It was seen as subjective, and what might have been innocuous for one person, could lead to a complaint from someone else and, consequently, an arrest under Section 66A if the police prima facie accepted the latter person’s view.

About Shreya Singhal vs Union of India (2015):

- One of the PILs was filed by Shreya Singhal, then a 21-year-old law student in Delhi.
- She challenged Section 66A arguing that it curbed freedom of speech and expression and violated fundamental rights guaranteed under **Articles 14, 19 and 21** of the Constitution.
- Her petition contended that the law was “vague”, “ambiguous” and subject to “wanton abuse” as **it conferred subjective powers on the police to interpret Section 66A of the IT Act**.

Supreme Court’s Judgement on Section 66A:

- In March 2015, a two-judge bench of the Supreme Court ruled in Shreya Singhal v. Union of India **declared Section 66A unconstitutional for “being violative of Article 19(1)(a) and not saved under Article 19(2)**.

- **Article 19(1)(a)** gives people the right to speech and expression whereas **Article 19(2)** accords the state the power to impose “reasonable restrictions” on the exercise of this right.
- The decision was considered a landmark judicial pushback against state encroachment on the freedom of speech and expression.
- **The Court observed that -**
 - Section 66A is cast so widely that virtually any opinion on any subject would be covered by it ...and if it is to withstand the test of constitutionality, the chilling effect on free speech would be total.
- In its order, the Supreme Court rendered Section 66A extinct from the very date of its insertion into the IT Act — October 27, 2009. But it lived on.

Law beyond expiration date:

- When the Supreme Court in March 2015 struck down Section 66A of the Information Technology Act 2000, it was thought as the end of what was called a ‘draconian’ law.
- However, in 2021, the Supreme Court found out that the law was still being invoked by police in around 11 states. The Supreme Court termed it “a shocking state of affairs”.
- The Supreme Court’s remark led the Centre to direct all states and Union Territories not to register cases under the repealed Section 66A of the IT Act.

News Summary:

- The Central government introduced **Jan Vishwas (Amendment of Provisions) Bill, 2022**, in Lok Sabha, which seeks to amend 183 provisions across 42 laws and is meant to decriminalise several offences and allow for compounding and rationalisation of penalties.
- Over the last few years, the Central government has sought to decriminalise several laws, such as the Companies Act, but this is the most comprehensive exercise.
- On the list of provisions proposed to be omitted is the controversial Section 66A from the Information Technology Act that saw adverse court rulings.
- The list also includes aspects like carrying/using non-biodegradable nature-polythene bags, which currently carries an imprisonment of up to six months under the Cantonments Act, 2006.
- Similarly, imprisonment of up to two years under Indian Post Office Act, 1898, for sending unpaid postal articles is being removed.

Q1) What are the exceptions of Article 19(1)(a)?

Freedom of speech is not absolute. Article 19(2) imposes restrictions on the right to freedom of speech and expression. The reasons for such restrictions are in the interests of: Security, Sovereignty and integrity of the country, Friendly relations with foreign countries, Public order, Decency or morality, Hate speech, Defamation, and

Contempt of court.

Q2) Can high court declare a law unconstitutional?

A High Court can declare a law to be unconstitutional and such declaration is binding upon the courts and territory under its jurisdiction only.

Source: [Section 66A of the IT Act](#)

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